

REMARKS

Reconsideration of the above-identified patent application in view of the amendments above and the remarks following is respectfully requested.

Claims 3-18 and 26-40 are in this case. Claims 3-18 and 26-40 have been rejected under § 103(a). Dependent claims 6-9 have been canceled. Independent claims 16, 17, 26 and 34-36 and dependent claims 10-12 have been amended. New independent claims 41 and 42 have been added.

The claims before the Examiner are directed toward a portable device, for data storage and transfer, that optionally functions in a stand-alone mode while exchanging data with another, similar device. The device includes a non-volatile memory for storing the data and a single interface that the device uses to exchange data with other devices. In one embodiment of the present invention, the operations of both the device and a similar device with which the device exchanges data are restricted to data storage and transfer. In another embodiment of the present invention, both the device and a similar device with which the device exchanges data lack operating systems. In yet another embodiment of the present invention, the device also includes a memory for storing a software application for controlling the data exchange, and neither the device nor a similar device with which the device exchanges data is capable of receiving an additional software application. Data to be exchanged are marked and selected according to type.

§ 103(a) Rejections – Matthews, III '634

The Examiner has rejected claims 3-18 and 26-40 under § 103(a) as being unpatentable over Matthews, III, US Patent Application Publication No.

2003/0027634 (henceforth, "Matthews, III '634"). The Examiner's rejection is respectfully traversed.

Claims 6-9 have been canceled, and claims 10-12 have been amended to depend from new claim 41. This renders moot the Examiner's rejection of claims 6-12.

Matthews, III '634 teaches a portable wireless transceiver device 22 for storing and exchanging load instructions 84, 92 for playing a game on a fixed-location platform 58. A device 22 that is within wireless communication range of another device 22 automatically receives load instructions 84 from the other device 22 and sends load instructions 92 to the other device 22. The user of device 22 later uses interface 34 of device 22 to connect device 22 to fixed-location platform 58 to continue playing the game. Load instructions 84 that device 22 has received are downloaded to fixed-location platform 58. In response, fixed-location platform 58 continues the game in accordance with load instructions 84 and uploads new load instructions 92 to device 22.

One crucial distinction between device 22 of Matthews, III '634 and the device of the present invention is that device 22 of Matthews, III '634 has two interfaces for data exchange: transceiver/antenna 28 for wireless data exchange with other devices 22 and interface 34 for data exchange with fixed-location platform 58. By contrast, the device of the present invention has a single interface that is used both for exchanging data with other, similar devices and for exchanging data with other kinds of devices such as a computer. There is neither a hint nor a suggestion in Matthews, III '634 of configuring device 22 with a single interface for all data exchanges.

While continuing to traverse the Examiner's rejections, Applicant, in order to expedite the prosecution, has chosen to amend independent claims 16, 17, 26 and 34-36 in order to clarify and emphasize this crucial distinction between the device of the present invention and device 22 of Matthews, III '634. Specifically, claims 16, 17, 26 and 34-36 have been amended to clarify that the device of the present invention has a single interface for data transfer and that the data transfer for which the single interface is provided is data transfer to other devices generally, not just to other devices of the present invention. Support for these amendments is found in the specification in Figures 1 and 2 and the accompanying text. Figure 1 shows device 12 with only one device interface 16 and with device 12 communicating with computer 14 via device interface 16 of device 12 and port 28 of computer 14. Figure 2 shows device 12 with only one device interface 16 and with device 12 communicating with a similar device 32, that also has only one device interface 16, and with devices 12 and 32 communicating with each other via their device interfaces 16.

Amended independent claims 16, 17, 26 and 34-36 now feature language which makes it absolutely clear that the device of the present invention includes a single interface for all data exchanges. Applicant believes that the amendment of the claims completely overcomes the Examiner's rejections on § 103(a) grounds.

With independent claims 16, 17 and 26 allowable in their present form, it follows that claims 3-5, 13-15, 18, 27-33 and 37-39, that depend therefrom, also are allowable.


Turning now to independent claim 40, this claim recites another crucial distinction between the device of the present invention and device 22 of Matthews, III '634. Device 22 of Matthews, III '634 exchanges only one type of data, the load instructions, with other devices 22. Device 22 therefore lacks the ability of the device

of the present invention, as recited in claim 40, of marking data according to type and selecting data for transfer according to type. This is an ability that is not needed for the game-playing application of Matthews, III '634, and so is neither hinted nor suggested in Matthews, III '634. It follows that claim 40 is allowable over Matthews, III '634 in its present form.

Similar limitations are recited in claims 8 and 9. Therefore, claim 9 has been rewritten in independent form, as new claim 41, and claim 8 has been rewritten in independent form, as new claim 42. Correspondingly, claims 6-9 have been canceled and claims 10-12 have been amended to depend from new claim 41.

In view of the above amendments and remarks it is respectfully submitted that independent claims 16, 17, 26, 34-36 and 40-42, and hence dependent claims 3-5, 10-15, 18, 27-33 and 37-39 are in condition for allowance. Prompt notice of allowance is respectfully and earnestly solicited.

Respectfully submitted,



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